

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of Apple Valley Ranchos Water Company (U 346 W) for Authority to Increase Rates (as authorized by NOI 02-03-017): In 2003 of \$2,775,000 or 27.1% above revenues generated by present rates, in 2004 of \$497,839 or 3.8% above the revenues generated by the rates proposed for 2003, in 2005 of \$507,422 or 3.7% above the 2004 revenue requirements.

Application 02-03-046
(Filed March 19, 2002)

**ASSIGNED COMMISSIONER'S RULING
SETTING A PREHEARING CONFERENCE
AND ESTABLISHING PROCEDURES**

Introduction

By Resolution ALJ 176-3085, dated April 4, 2002, the Commission primarily designated the captioned application as "Ratesetting" with a hearing indicated. Commissioner Michael R. Peevey and Administrative Law Judge (ALJ) Michael J. Galvin respectively were designated as the Assigned Commissioner and ALJ.

Prehearing Conference

Pursuant to Rule 6.2 of the Commission's Rules of Practice and Procedure (Rules), a Prehearing Conference (PHC) should be held as soon as practicable to clarify the issues in this proceeding, deal with procedural matters and, if necessary, set dates for customer notification, public participation hearings, and evidentiary hearings.

All interested persons seeking to become parties in this proceeding should attend the PHC and file an appearance. Those who demonstrate a plan to actively participate in the proceeding shall be granted party status. Any others filing appearances shall be granted Information Only or other appropriate status.

Should parties desire to file and serve a PHC statement, addressing scheduling, issues to be considered, or other procedure matters, such filings and servings should be made no later than four days prior to the PHC.

Following the PHC, I will issue a scoping memo ruling making a final determination on the category, need for hearing, schedule, and will designate the principal hearing officer, pursuant to Rule 6(a)(3).

Oral Argument and Commissioner Presence

Rule 8(c) provides that parties in ratesetting proceedings may request the presence of the Assigned Commissioner at a formal hearing or specific portion thereof. Rule 8(d) provides that parties in ratesetting proceedings have the right to make a final oral argument before the Commission, if the party so requests within the time and in the manner specified in the scoping memo or later ruling in the proceeding.

Parties should be prepared to discuss at the PHC the specific procedures that will be followed for requesting the Assigned Commissioner's presence (in addition to those set forth in Rule 8(c)) and for requesting final oral argument.

Ex Parte Communications

Parties should note and observe the rules (Rules 7 and 7.1) that govern, respectively, ex parte communications and the reporting of such communications. In particular, pursuant to Rule 7(a)(1), the requirements of Rule 7(c) are applicable pending a final determination of the category of this

proceeding.¹ Rules 7(f) and 7(g) are also applicable. Rules 7(c), 7(f), and 7(g) are reproduced below:

- “(c) In any ratesetting proceeding, ex parte communications are permitted only if consistent with the following restrictions, and are subject to the reporting requirements set forth in Rule 7.1:
 - “(1) Oral ex parte communications are permitted at any time with a Commissioner provided that the Commissioner involved
 - (i) invites all parties to attend the meeting or sets up a conference call in which all parties may participate, and
 - (ii) gives notice of this meeting or call as soon as possible, but no less than three days before the meeting or call.
 - “(2) If an ex parte communication meeting or call is granted by a decisionmaker to any party individually, all other parties shall be sent a notice at the time that the request is granted (which shall be no less than three days before the meeting or call), and shall be offered individual meetings of a substantially equal period of time with that decisionmaker. The party requesting the initial individual meeting shall notify the other parties that its request has been granted, at least three days prior to the date when the meeting is to occur. At the meeting, that party shall produce a certificate of service of this notification on all other parties. If the communication is by telephone, that party shall provide the decisionmaker with the certificate of service before the start of the call. The certificate may be provided by facsimile transmission.
 - “(3) Written ex parte communications are permitted at any time provided that the party making the communication serves

¹ After the Assigned Commissioner’s appealable determination of category, the applicable requirements shall depend on such determination unless and until modified by the Commission pursuant to Rule 6.4 or 6.5(a). Thus, these rules will continue to apply throughout the course of this proceeding unless it is later determined to be other than a ratesetting proceeding.

copies of the communication on all other parties on the same day the communication is sent to a decisionmaker.

- “(4) In any ratesetting proceeding, the Commissioner may establish a period during which no oral or written communications on a substantive issue in the proceeding shall be permitted between an interested person and a Commissioner, a Commissioner’s personal advisor, the Chief Administrative Law Judge, any Assistant Administrative Law Judge, or the assigned Administrative Law Judge. Such period shall begin not more than 14 days before the Commission meeting date on which the decision in the proceeding is scheduled for Commission action. If the decision is held, the Commission may permit such communications for the first half of the hold period, and may prohibit such communications for the second half of the period, provided that the period of prohibition shall begin not more than 14 days before the Commission meeting date to which the decision is held.

In all ratesetting proceedings where hearings have been held and a proposed decision has been filed and served, there shall be a prohibition on communications as provided in this subsection.

The first day of the prohibition on communications will be the day of the Ratesetting Deliberative meeting at which the proposed decision is scheduled to be discussed and will continue through the conclusion of the Business Meeting at which a vote of the proposed decision is scheduled. If a proposed decision is held at the Business Meeting, when the hold is announced the Commission will also announce whether and when there will be a further prohibition on communications, consistent with the requirements of this subsection.”

* * *

- “(f) Ex parte communications concerning categorization of a given proceeding are permitted, but must be reported pursuant to Rule 7.1(a).

“(g) When the Commission determines that there has been a violation of this rule or Rule 7.1, the Commission may impose penalties and sanctions, or make any other order, as it deems appropriate to ensure the integrity of the record and to protect the public interest.”

IT IS RULED that:

1. A Prehearing Conference (PHC) shall be held on May 3, 2002, at 10 a.m., in the Commission Courtroom, State Office Building, 505 Van Ness Avenue, San Francisco, California.
2. Interested parties may file and serve a PHC statement, addressing scheduling, issues to be considered, or other procedure matters, no later than April 29, 2002.
3. All those seeking to become parties in this proceeding shall attend the PHC and file an appearance as set forth in the body of this ruling. Those who demonstrate a plan to actively participate in the proceeding shall be granted party status. Any others filing appearances shall be granted Information Only or other appropriate status.
4. Apple Valley Ranchos Water Company and all interested parties shall observe the procedures, rules, and filing requirements set forth in the foregoing discussion.

Dated April 15, 2002, at San Francisco, California.

/s/ MICHAEL R. PEEVEY
Michael R. Peevey
Assigned Commissioner

CERTIFICATE OF SERVICE

I certify that I have by mail this day served a true copy of the original attached Assigned Commissioner's Ruling Setting a Prehearing Conference and Establishing Procedures on all parties of record in this proceeding or their attorneys of record.

Dated April 15, 2002, at San Francisco, California.

/s/ KE HUANG

Ke Huang

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to ensure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

The Commission's policy is to schedule hearings (meetings, workshops, etc.) in locations that are accessible to people with disabilities. To verify that a particular location is accessible, call: Calendar Clerk (415) 703-1203.

If specialized accommodations for the disabled are needed, e.g., sign language interpreters, those making the arrangements must call the Public Advisor at (415) 703-2074, TTY 1-866-836-7825 or (415) 703-5282 at least three working days in advance of the event.